

North Canton City Council
Water, Sewer, and Rubbish Committee

ORDINANCE 70 - 2021

An ordinance amending various sections of the City of North Canton Zoning Code and adding thereto new definitions and establishing a new Chapter in order to establish a source water protection area and provide for the regulation of substances for the protection of groundwater resources within the source water protection area.

WHEREAS, the City of North Canton (the "City") relies solely on groundwater for meeting one hundred percent (100%) of its residential, commercial, and industrial water needs; and

WHEREAS, specific land uses and activities may contribute to the degradation of groundwater quality; and

WHEREAS, the risk of contamination of groundwater utilized by the City of North Canton will be reduced by managing the development, land use, and commercial activity of property located within identified groundwater protection areas; and

WHEREAS, the Ohio Environmental Protection Agency requires a Source Water Protection Program for the protection of existing and future groundwater supplies; and

WHEREAS, protection of the groundwater resource benefits the residents of the City and present and future groundwater users who receive their water from aquifers within the Source Water Protection Area (as defined herein; and

WHEREAS, this Council desires to amend the Codified Ordinances of the City by adopting and implementing a Source Water Protection Program, as further defined herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That there be, and is hereby, established Chapter 1141, Source Water Protection Districts Regulations, of the Codified Ordinances of the City of North Canton which shall read as written in full in "Exhibit A" attached hereto and incorporated herein.

Section 2. That Chapter 1191, Penalty, of the Codified Ordinances of the City of North Canton be, and is hereby, amended to include the addition of the flowing section:

SECTION 1191.10 VIOLATION AND PENALTY FOR SOURCE WATER PROTECTION.

(a) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of Chapter 1141, and all amendments thereto, shall be fined as follows.

- (1) Any person, firm, or corporation, violating any of the provisions of this Chapter or any amendment or supplement thereto, shall be in violation and fined not more than Five Hundred Dollars (\$500.00) per day, per offense. Each and every day such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues, shall constitute a separate offense.
- (2) Dumping of any Regulated Substance as referenced in the Chapter or prohibited materials associated with a prohibited land use, activity, or facility as referenced in this Chapter shall be remediated immediately and may be punishable by a fine of up to Ten Thousand Dollars (\$10,000.00). Each day of non-compliance shall be considered a separate offense.
- (3) Any person or entity found to have introduced contamination of any form into the Source Water Protection Area shall be in violation of this Chapter and subject to a fine of up to Ten Thousand Dollars (\$10,000.00). Each day of violation shall be considered a separate offense.

Section 3. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified

Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 4. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 5. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this 14th day of February, 2022.

Attest: Benjamin R. Young
Benjamin R. Young, Clerk of Council

Stephan B. Wilder
Stephan B. Wilder, Mayor

Signed on: 15 February 2022

CHAPTER 1141 – SOURCE WATER PROTECTION DISTRICTS REGULATIONS

SECTION 1141.01 INTENT

(a) Source Water Protection Area Overlay District (“SWPA”) are hereby delineated and its regulations and zones are established in order to regulate land uses within the Source Water Protection Area of the City of North Canton in order to safeguard the public health, safety, and welfare of persons and property by protecting designated groundwater supplies from degradation resulting from the improper storage, handling, or discharge of regulated substances in and around existing and future well fields and their recharge areas. Specifically the purposes of these regulations are:

- (1) To prevent the creation or establishment of non-compatible land uses which have the potential to degrade or otherwise negatively impact groundwater resources and thus, impair or destroy the utility of the aquifer, and the public investment therein,
- (2) To reduce the risk of contamination of groundwater by managing development, land use, and commercial activities within identified source water protection zones, and
- (3) To assist in the implementation of policies and recommendations to protect the residents of the City of North Canton and present and future groundwater users who receive their water from aquifers within the Source Water Protection Area.

SECTION 1141.02 APPLICATION OF THE DISTRICTS

The SWPA Districts shall be in addition to and shall overlay all other zoning districts where the SWPA District is established. Therefore, any parcel of land lying in the SWPA District shall also lie in one or more of the other zoning districts provided for in this Zoning Ordinance. The district designation of an SWPA District shall be superimposed over the existing zoning designations on the Zoning Map.

SECTION 1141.03 ESTABLISHMENT OF SOURCE WATER PROTECTION OVERLAY DISTRICTS

(a) Source Water Protection Area Overlay Districts boundaries shall be established in accordance with the required procedures for a Zoning Amendment set forth in this Code except that the Source Water Protection Committee shall make recommendations on adoption and amendments to the City Council.

(b) The SWPA shall be comprised of two (2) primary districts to be established within the Source Water Protection Area as defined and created by Chapter 940. The Primary Districts shall be as follows:

- (1) “One (1)-Year Time-of Travel Zone Source Water Protection Area Overlay District” (SWPA-1) which shall as close as is practicable reflect the One (1)-Year Time-of Travel Zone, designated pursuant to Chapter 940, as that area around the well or well field wherein a groundwater flow model has been used to scientifically derive the area where groundwater should take one year or less to reach the water supply wells.; and
- (2) Five (5) Five-Year Time-of Travel Zone Source Water Protection Overlay District (SWPA-5) which shall as close as is practicable reflect the Five (5)-Year Time-of Travel Zone, designated pursuant to Chapter 940, as that area around the well or well field located outside the one-year TOT zone but within the boundaries of the five-year TOT zone wherein a groundwater flow model has been used to scientifically derive the area where groundwater should take five years or less to reach the water supply wells.

SECTION 1141.04 DEFINITIONS

For the purpose of this Chapter all words and phrases defined in Section 940.02 shall be interpreted to have the same meaning as defined therein when used in this Chapter.

SECTION 1141.05 USE REGULATIONS

(a) One (1)-Year Time-of Travel Zone Source Water Protection Area Overlay District.

In addition to the use regulations established for any property by districts underlying an SWPA-1 zoning classification, the establishment of the following new activities/land uses is prohibited in the SWPA-1 district as of the effective date of this Chapter:

- (1) Commercial junk yards;
- (2) Commercial sanitary/solid waste/construction and demolition debris landfills;
- (3) The disposal of shingles, asphalt, and/or lead-based or lead-containing materials in an unlicensed landfill;
- (4) Trucking or bus terminals where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (5) Primary metal product industries where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (6) Lawn, garden, pesticide, and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides, and other industry-related chemicals for commercial application when quantities of concentrated fertilizers, pesticides, and other industry-related chemicals stored onsite exceed exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (7) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage of Regulated Substances exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (8) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; and
- (9) Use of fly ash or other ash material for fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block.

(b) Five (5)-Year Time-of Travel Zone Source Water Protection Area Overlay District.

In addition to the use regulations established for any property by districts underlying an SWPA-5 zoning classification, the establishment of the following new activities/land uses is prohibited in the SWPA-5 district as of the effective date of this Chapter:

- (1) Commercial junk yards;
- (2) Commercial sanitary/solid waste/construction and demolition debris landfills;
- (3) The disposal of shingles, asphalt, and/or lead-based or lead-containing materials in an unlicensed landfill;
- (4) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage of Regulated Substances exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (5) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; and
- (6) Use of fly ash or other ash material for fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block.

SECTION 1141.06 EFFECT OF DISTRICT REGULATIONS ON PRE-EXISTING NON-CONFORMING USES

(a) Where, at the effective date of the adoption of, or amendment to, the provisions set forth herein, lawful use of land exists that is no longer permissible under the provisions of This Chapter, such use may be continued, so long as it remains otherwise lawful, subject to provisions of this Chapter.

(b) Any non-conforming use of land, building, or regulated substance storage unit existing as of the effective date of adoption of, or amendment to, the provisions set forth herein and which operates within a SWPA District is permitted to continue operation as a nonconforming

existing land use, building, or regulated substance storage unit provided it remains otherwise lawful; complies with the provisions of Chapter 940 which apply to existing facilities; and is subject to provisions of this Chapter.

(c) An existing use made non-conforming solely by application of the provisions set forth herein, shall be treated as non-conforming only as to those uses prohibited by this Chapter. As to existing uses not prohibited or otherwise regulated by this Chapter, those uses remain conforming such that they may be expanded or otherwise altered without violation of this Chapter.

(d) No building, structure or premises where a nonconforming use has ceased for a period of one (1) year or more shall again be put into a nonconforming use.

SECTION 1141.07 SPECIAL PROVISIONS FOR AMENDMENTS OF SOURCE WATER PROTECTION AREA OVERLAY DISTRICTS

(a) Additional Notice Requirements. For any amendment which proposes a change in the boundary of a SWPA District public notice of the change shall be provided in accordance with requirements for the City of North Canton but shall include no less than posting of the proposed change on the City of North Canton website and on the bulletin board in City Hall for a minimum of seven (7) days, and notification via first class mail no less than thirty (30) days prior to the public hearing date to those regulated facility operators in the pre-existing SWPA District whose location in a district has changed as a result of the amendment, and any non-residential property owners in the newly-added portions of the updated district as may exist. Said notification shall be in the form of a letter stating the results of the amendment and any subsequent change in the facility's regulatory status.

(b) Where an existing facility required to comply with the provisions set forth herein is no longer located in a SWPA District as a result of an amendment, the facility is no longer subject to compliance with this Chapter.

(c) Any facility previously located outside the boundary of the SWPA Districts that is located inside the boundary of a SWPA District as a result of an amendment must be registered in accordance with Chapter 940 and must comply with those provisions required of existing facilities for the SWPA District in which the facility is located as applicable and in accordance with the time frames specified for those applicable provisions.

(d) Any registered facility whose classification within a SWPA District is changed to a different SWPA District as a result of an amendment must submit an amended facility registration to the Director of Administration or Designee in accordance with Chapter 940 and must comply with those provisions required of existing facilities as applicable for the new SWPA District in which that facility is now located in accordance with the time frames specified for those applicable provisions.

SECTION 1141.08 SPECIAL PROVISIONS FOR APPEALS ARISING FROM THIS CHAPTER

(a) All appeals regarding zoning regulations/requirements promulgated under this Chapter for the Source Water Protection Area shall remain under the jurisdiction the Zoning and Building Standards Board of Appeals as provided for in this Code except that, in addition to the appeals regulations set forth in Chapter 1179, the following shall apply:

(1) **Recommendation from the Source Water Protection Committee.** Before the Zoning and Building Standards Board of Appeals grants any variance or appeal relative to a Source Water Protection Area, the variance or appeal request shall first be reviewed by the Source Water Protection Committee to ensure that the request, if granted, will not present a contamination threat to groundwater.

(A) The Source Water Protection Committee, as established under Ordinance 36-2021, shall provide a recommendation on the variance or appeal request to the Zoning and Building Standards Board of Appeals.

(B) In doing so, the Source Water Protection Committee may include with the recommendation any such alternatives or modifications to

the request as necessary to minimize the potential for groundwater contamination.

- (C) The Source Water Protection Committee shall have thirty (30) days from receiving a variance or appeal request, inclusive within, and not in addition to, the allowed time frame for Zoning and Building Standards Board of Appeals review, to make a recommendation to the Zoning and Building Standards Board of Appeals.